

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AITABDELLAH SALEM,

Plaintiff,

-against-

CITY OF NEW YORK, JOSEPH PONTE, COMMISSIONER OF
THE NEW YORK CITY DEPARMTENT OF CORRECTION,
IN HIS INDIVIDUAL CAPACITY, JOHN DOE NO.1,
WARDEN, NEW YORK CITY DEPARTMENT OF
CORRECTION, IN HIS INDIVIDUAL CAPACITY, JOHN DOE
NO. 2, ASSISTANT WARDEN, OF THE NEW YORK CITY
DEPARTMENT OF CORRECTION, IN HIS INDIVIDUAL
CAPACITY, JOHN DOE NO.3, TOUR COMMANDER NEW
YORK CITY DEPARTMENT OF CORRECTION, AMKC,
RIKERS ISLAND, IN HIS INDIVIDUAL CAPACITY, JOHN
DOE NO. 4, CAPTAIN, NEW YORK CITY DEPARTMENT OF
CORRECTION, AMKC, RIKERS ISLAND, IN HIS
INDIVIDUAL CAPACITY.

**DECLARATION OF
JOSEPH GUTMANN IN
SUPPORT OF
DEFENDANTS' MOTION
TO DISMISS THE SECOND
AMENDED COMPLAINT**

17-CV-4799 (JGK)

Defendants.

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JOSEPH GUTMANN, an attorney duly admitted to practice law in the State of
New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the
following is true and correct:

1. I am a Senior Counsel in the Office of Zachary W. Carter, Corporation
Counsel of the City of New York. I am the attorney assigned to the defense of this action. As
such, I am familiar with the facts and circumstances stated herein.

2. I submit this declaration in further support defendants' motion to dismiss the
Second Amended Complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure. In
support of their motion, defendants submit the exhibits described below.

3. Exhibit “1” is a true and correct copy of the Second Amended Complaint in this action, which sets forth, among other things, that plaintiff claims he was unlawfully detained in the custody of the Department of Correction (hereinafter “DOC”) from November 28, 2014 to April 15, 2015.

4. Exhibit “2” is a true and correct copy of plaintiff’s DOC Prisoner Movement Log, which sets forth, among other things, that DOC transported plaintiff from Rikers Island to the criminal court on each date of scheduled court appearances.

5. Exhibit “3” is a true and correct copy of the Certificate of Disposition in Docket No. 2014NY088542, which sets forth, among other things, that plaintiff was convicted and sentenced to a five year period of imprisonment on the charges arising under Docket No. 2014NY088542.

6. Exhibit “4” is a true and correct copy plaintiff’s DOC Jailtime Certification, which sets forth, among other things, that plaintiff was credited with time-served for the days he spent in custody between November 28, 2014 and April 15, 2015 toward his five year sentence under Docket No. 2014NY088542.

7. Exhibit “5” is a true and correct copy of plaintiff’s DOCCS Inmate Lookup Sheet, which sets forth, among other things, that plaintiff is currently serving a prison sentence in the custody of the New York State Department of Corrections and Community Supervision.

Dated: New York, New York
November 13, 2018

ZACHARY W. CARTER
Corporation Counsel for the City of New York
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By: /s/
Joseph Gutmann
Senior Counsel
Special Federal Litigation Division

VIA ECF & FIRST CLASS MAIL
TO: Welton K. Wisham, Esq.
Counsel for Plaintiff